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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,622	10/14/2003	Christopher E.J. Reid	45896.0024	3738
22850	7590	02/08/2006		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER SHRIVER II, JAMES A	
			ART UNIT 3618	PAPER NUMBER

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/684,622

Applicant(s)

REID ET AL.

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 53-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 53,54 and 63-68 is/are rejected.
- 7) ☒ Claim(s) 55-62 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's submittal of an amendment was received on October 7, 2005, wherein claims 1-52 were cancelled and new claims 53-68 were added.

### *Drawings*

2. The drawings were received on October 7, 2005. These drawings are approved.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 53, 63-65 and 67-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. (US Patent Application Publication 2001/0052433) in view of Dantigraber (US Patent 5,591,015).** Harris et al. discloses a hybrid power supply apparatus (15) interchangeable with a conventional battery removably positionable within a battery receptacle tray of an electric vehicle, the battery having a power output connectable to the drive system of the vehicle, said hybrid power apparatus comprising a fuel cell (3); an energy storage device (1) chargeable by said fuel cell; a housing (2) enclosing said fuel cell and said energy storage device, wherein said housing is sized to fit within said battery receptacle tray; a power

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output (7) electrically connectable to said storage device and extending externally of said housing for electrically coupling said apparatus to said drive system of said vehicle when said housing is positioned within said battery receptacle tray; [claim 63] wherein said housing comprises a user interface surface which is exposed when said housing is placed within said vehicle receptacle tray, wherein said fuel inlet is located on said user interface surface (See paragraph 0046); [claim 64] wherein said housing comprises a controller (4) positioned within said housing for regulating operation of said fuel cell depending upon the state of charge of said energy storage device; [claim 65] wherein said energy storage device comprises at least one battery (1); [claim 67] further comprising a DC/DC power converter (inherent for the system to work properly) positioned within said housing for converting DC current generated by said fuel cell to a voltage suitable for charging said energy storage device.

Harris et al. does not disclose providing a first vibration dampener positioned within said housing for absorbing vibration when said vehicle is in operation. Dantigraber discloses providing a first vibration dampener (25) positioned within a housing (See Fig. 1) for absorbing vibration when said vehicle is in operation. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a first vibration dampener within the housing disclosed in Harris et al. in view of the teaching of Dantigraber. The motivation for doing so would have been to reduce the vibrations between the components within the housing.

Regarding claim 68, under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. *In re King*, 801 F.2d 1324, 231

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USPQ 136 (Fed. Cir. 1986). Therefore, the method set forth in claim 68 is inherently performed by the apparatus disclosed in Harris et al.

5. **Claims 54 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. (US Patent Application Publication 2001/0052433) and Dantigraber (US Patent 5,591,015) as applied to claim 53 above, and further in view of Examiner's Official Notice.** The combination of Harris et al. and Dantigraber disclose the hybrid power supply apparatus as set forth above, but does not specifically disclose providing a second vibration dampener which surrounds at least part of said housing when said housing is positioned within said battery receptacle tray. Examiner takes Official Notice that it is notoriously old and well known that vibration dampeners are used between a housing and a frame/tray in order to protect vehicle components by reducing vibrations.

Additionally regarding claim 66, the combination of Harris et al. and Dantigraber disclose the hybrid power supply apparatus as set forth above, but does not specifically disclose wherein said energy storage device comprises at least one capacitor. Examiner takes Official Notice that it is notoriously old and well known that a capacitor is an equivalent energy storage device to a battery, and that either energy storage device would work with a fuel cell.

***Allowable Subject Matter***

6. Claims 55-62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

7. Applicant's arguments with respect to claims 53-68 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (571) 272-6698. The examiner can normally be reached on Monday, Wednesday and Thursday 6:30 am-6:00 pm and Tuesday 6:30 am-11:00 am.

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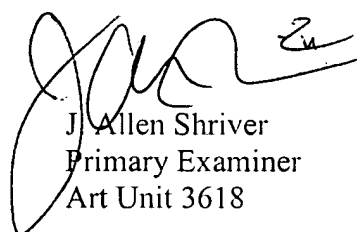
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (571) 272-6914. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to: (571) 273-8300 (for formal communications intended for entry). (571) 273-6698 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Allen Shriver  
Primary Examiner  
Art Unit 3618

JAS